THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 1937 of 2005

Dated: 22-08-2005

Between:

1 S.R. Venkata Ramana, S/o. Laxmipathi,
R/o. H.No. 3-10-73/13, Swamy Vivekanandanagar, Nizamabad and

another.

..... PETITIONERS

AND

1. Northern Power Distribution Company Limited, Rep. by its Chairman and Managing Director, Khairatabad, Hyderabad and others.

.....RESPONDENTS

O R D E R:

This writ petition is filed under Article 226 of the Constitution of India, seeking a Mandamus declaring the action of the respondents in issuing the proceedings in letter dated 31-12-2004 rejecting the case of the petitioners though they are eligible to the said posts as illegal and arbitrary.

The petitioners worked as Contract Labour under M/s. Kamareddy Cement Moulding Works to attend to the work of manufacturing of PSCC poles at poles center. It is stated that in view of the Judgment of this Court in W.P.No.5064 of 1999 and batch, the respondents-Board issued a paper notification inviting application for recruitment of the post of LDC/typist and accordingly interview were held on 30-11-2002 but the fact remains that the Board declared that there were no successful candidates and thus the result of the interviews held are –NIL. Questioning the same, the petitioners along with the other candidates filed W.P.Nos.5158 of 2003 and 5746 of 2003 wherein this Court while disposing of the writ petition directed the respondents to consider the case of the petitioners in the light of the aforesaid observations for their absorption pursuant to the orders in BPMs.No.36, dated 18-5-1997. If any of the petitioners are not found eligible or qualified, communicate the reasons individually to the petitioners within eight weeks from the date of receipt of a copy of that order. After that, the petitioners made a representation to the respondents-Board requesting to consider their case as per the guidelines in the Judgment of this Court. It is the case of the petitioners that surprisingly, the respondents-board issued the impugned proceedings informing that the petitioners were not selected for the post they applied, on the ground that the certificate submitted by them issued by M/s Kamareddy Cement Moulding Works has been verified and found that there were no agreements executed in the year 1997 as the petitioners were not on the rolls as on 18-05-1997. Aggrieved by the same, the present writ petition has been filed.

In the counter filed by the respondents, it is stated that the case of the petitioners was dealt with strictly in accordance with the guidelines of this Court in W.P.No. 5746 of 2003, therefore, the question of violation of the orders of the Court as contended by the petitioners does not arise. Merely basing on the oral statement of the petitioners could not be accepted unless otherwise there is an adequate documentary support. As the contractor under whom the petitioners were worked could not show any record in support of the service rendered by the petitioners under him. It is further stated that the agreement of the petitioners in L.S.No.7/89-90, which according to the petitioners were extended upto 31-12-1997 cannot be taken

for the continuance of the petitioners having worked in connection with the said agreement as 18-05-1997. Therefore, there are no merits in the writ petition and the same may be dismissed.

Heard both sides.

Learned counsel for the petitioners contended that the

1st petitioner worked under the contractor from 01-04-1992 to

31-03-1996 and again from 01-03-1997 to 31-03-1998 whereas the 2nd petitioner worked from 01-04-1996 to 30-11-1997. Therefore, there is no justified reason in rejecting the case of the petitioners on the ground that no agreements were executed in the year 1997, which on the face of it is false in view of the fact that the agreement which was referred under the impugned order has been extended till the end of the year 1997. In view of the same, the impugned proceedings are liable to be quashed.

On the other hand, the learned Standing Counsel appearing for the respondents-Board contended that L.S.agreement No.7/89-90 was commenced from 15-06-1989 with a duration period of five years and since the petitioners were not on the rolls as on 18-05-1997 their case was rightly rejected by the Board and therefore, there are no grounds to quash the impugned proceedings.

There is no dispute that both the petitioners were worked as Contract Labour under the same L.S. agreement No.7/89-90 for the periods stated above. In pursuance of the Judgment of this Court wherein this Court directed the respondents-Board to consider the case of the petitioners in the light of its observations for their absorption to the orders in B.P.M.S.No.36 dated 18-05-1997, the respondent board issued impugned proceedings. In respect of the 1st petitioner, in the impugned proceedings it is stated that the certificate submitted by the petitioner issued by M/s. Kamareddy Cement Moulding Works has been verified and it is found that there were no agreements executed in the year 1997 and hence it is concluded that the petitioner was not on the rolls as on 18-05-1997 Besides, there was no check measurements. Where as the case of the 2nd petitioner is concerned, in the impugned proceedings it is stated that certificate submitted by the petitioner issued by the K.Kishan has been verified and found that there were no agreements executed in the year 1997 and hence it is concluded that the petitioner was not on the rolls as on 18-05-1997.

Besides, there was no check measurement. Further L.S. Agreement No.7/89-90 under which the petitioners claim to have been worked, commenced from 15-06-1989 with a duration of five years and hence the incumbent was not on the rolls as on 18-05-1997. But in the letter dated 22-09-1998 addressed to M/s.Kamareddy Cement Moulding Works, Kamareddy by the Superintending Engineer, APSEB, Nizamabad it is clear stated as under:

> " …. The L.S. Agreement No.7/89-90 for manufacture of PSCC Poles at Kamareddy entered into by M/s.Kamareddy Cement Moulding Works, Kamareddy is hereby terminated limiting cost of agreement to the extent of work done from 01-04-1989 to 31-12-1997."

On a perusal of the above letter it is clear that the Contractor under whom the petitioners were worked has got work from
01-04-1989 to 31-12-1997. On a perusal of the Service Certificates of the individuals, the 1st petitioner worked as a Contract Labour from 01-04-1996 to 30-11-1997 and the 2nd petitioner worked as Contract Labour from 01-04-1992 to 31-03-1996 and again from 01-03-1997 to 31-03-1998. But the said aspect has not been considered by the respondents-Board.

But it is the case of the petitioners that by the date as
on 22-09-1998 the contract of the petitioners was extended and that the action of the respondents-Board in not considering their case is illegal and arbitrary. In the light of the letter dated 22-09-1998 as on 18-05-1998 L.S. Agreement No. 7/89-90 is in force. Therefore, taking into account the said agreement and in the light of the service certificates of the individuals it can be said that as on 18-05-1997, the petitioners were working as Contract Labour in L.S.Agreement No.7/89-90, either the contract is extended or for the reason whatever may be.

For the aforesaid reason, I am of the view that the impugned proceedings are liable to be quashed and is accordingly quashed directing the respondents to consider the case of the petitioners taking into account the extension of L.S.Agreement No.7/89-90 and pass appropriate orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

With the above observation, the writ petition is disposed of. No costs.

22-08-2005

Note: CC in one week.

B/o Mjl/*